



# Haryana Government Gazette

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No. 7-2022] CHANDIGARH, TUESDAY, FEBRUARY 15, 2022 (MAGHA 26, 1943 SAKA)

### PART-I

#### Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA  
Nirvachan Sadan, Plot No. 2, Sector- 17, Panchkula, Haryana – 134109

##### Order

The 1st February, 2022

**No. SEC/1ME/2022/65.**— Whereas the State Election Commission, Haryana had conducted general elections for 17 wards and President of Municipal Committee, Dharuhera on 27.12.2020 and the result was declared on 30.12.2020. The names of the elected candidates for 17 wards and Sh. Kanwar Singh elected for the post of the President of the Municipal Committee, Dharuhera were notified *vide* Notification No. SEC/1ME/2021/02 dated 01.01.2021.

2. However, Sh. Sandeep Bohra & Others filed a complaint before the State Election Commission on 06.01.2021 alleging therein that Sh. Kanwar Singh did not fulfill the requisite educational qualification, i.e. Matriculation or 10<sup>th</sup> class pass at the time of filing nomination since he had not passed the matriculation examination or its equivalent examination from any recognized Institute/Board. They prayed that his election to the post of President, Municipal Committee, Dharuhera may be set aside under Section 13(I) of the Haryana Municipal Act, 1973.

3. The Commission sent the complaint to the Deputy Commissioner, Rewari with the directions to enquire into the matter and submit a report along with his comments to the Commission at the earliest possible.

4. The Deputy Commissioner, Rewari marked the enquiry to the Sub Divisional Officer (Civil), Kosli to enquire into allegations and submit a report. The Inquiry Officer submitted his report on 15.01.2021 to the Deputy Commissioner, Rewari who in turn sent the same to the Commission for further necessary action as per rules. The inquiry report was examined by the Commission. The Inquiry Officer in his report had concluded that in view of the report received from the Board of School Education Haryana, Bhiwani it was clear that the Central Board of Higher Education, New Delhi was not a recognized Board by the Board of School Education Haryana, Bhiwani. Hence the Matriculation certificate issued by it to Shri Kanwar Singh was not recognized. Hence the Commission took a view that Matriculation certificate submitted by Shri Kanwar Singh while filing nomination to contest the election for the seat of President, Municipal Committee, Dharuhera cannot be treated as valid.

5. The State Election Commissioner, Haryana thereafter gave personal hearing to Shri Kanwar Singh on 12.03.2021 and thereafter concluded that Shri Kanwar Singh son of Shri Deena Ram while contesting the election of President of Municipal Committee, Dharuhera had submitted Matriculation certificate which was not from a recognized Board/Institute and ordered to set aside his election as President of Municipal Committee, Dharuhera with immediate effect. It was also ordered that the name of Shri Kanwar Singh be treated as de-notified from the Notification No. SEC/1ME/2021/02 dated 01.01.2021 issued by the Commission.

6. Shri Kanwar Singh challenged his disqualification/removal order dated 15.03.2021 in the Hon'ble Punjab and Haryana High Court, Chandigarh through Civil Writ Petition No. 8093 of 2021 praying for quashing the same.

7. As per Section 15 (1) of the Haryana Municipal Act, 1973, it is mandatory for the State Election Commission to fill up the vacancy of President or any member, occurred due to death, resignation or removal within six months from its occurrence. The Commission thus after updating the electoral rolls of the Committee and getting concurrence from the State Government (required under section 3A of the Haryana Municipal Act, 1973), issued programme for conduct of bye-election for the seat of President, Municipal Committee, Dharuhera, district Rewari vide Notification No. SEC/1ME/2021/3098 dated 19.08.2021. As per the notified programme, election for the seat of the President was to be held on 12.09.2021. However, in the meanwhile Sh. Kanwar Singh filed a CM No. 11650 in CWP No. 8093 of 2021 for early hearing of the case which was allowed by the Hon'ble High Court and fixed the case for hearing first for 08.09.2021 and thereafter for 10.09.2021. On 10.09.2021, the Hon'ble High Court passed the following order in the case:

"Writ petition is allowed.

Impugned order dated 15.03.2021 (Annexure P-4) is set aside.

For detailed reasons to be assigned, list on 13.09.2021"

8. In compliance with the orders of the Hon'ble Punjab and Haryana High Court, Chandigarh, the State Election Commission, Haryana vide Notification No. SEC/1ME/2021/3779 dated 10.09.2021 passed an order to stop all activities pursuant to conduct of bye-election of the seat of President, Municipal Committee, Dharuhera and withdrew the name of Municipal Committee, Dharuhera, Rewari from Notification No. SEC/1ME/2021/3098 dated 19.08.2021 issued by the Commission. It was also ordered to refund the security deposits of all the candidates who had filed nomination to contest the election for the seat of President, Municipal Committee, Dharuhera.

9. The Hon'ble High Court allowed the writ petition and passed a detailed order on 15.09.2021:-

"Order dated 15.03.2021 passed by the second respondent (State Election Commissioner) at Annexure P-4 is quashed. As a necessary consequence name of the petitioner shall forthwith be notified as President of the Municipal Committee, Dharuhera."

10. The Advocate General, Haryana vide Memo No. 39450-54 dated 23.09.2021 advised that the judgment dated 15.09.2021 passed by the Hon'ble Punjab and Haryana High Court in CWP No. 8093 of 2021 was fit for filing Special Leave Petition. The State Election Commission, Haryana thus filed a Special Leave Petition No. 17299-17300 of 2021 in the Hon'ble Supreme Court of India against the orders dated 10.09.2021 and 15.09.2021 passed by the Hon'ble Punjab and Haryana High Court in CWP No. 8093 of 2021 titled 'Kanwar Singh versus State of Haryana and Others' with a pray to stay the operation of the impugned order and pass any other order as the Hon'ble Court may deem fit in the interest of justice.

11. The SLP first came up for hearing on 12.11.2021 and after hearing the arguments; the Hon'ble Supreme Court has passed the following orders:-

"Our attention is invited to the communication dated 15.10.1982 (Annexure-P-1). This clearly reveals that the institution was not recognized at all, in the first place.

It is urged that the High Court Proceeded on some erroneous basis that the institution was recognized and subsequently de-recognized before which the private respondent had completed his education in that institution.

We are conscious of the fact the Special Leave Petition (C) No. 16567 of 2021, at the instance of the complainant, has already been rejected on 25.10.2021 against the impugned judgment.

Nevertheless, we deem it appropriate to issue notice on this Special Leave Petition as the stated document was not brought to our notice nor the High Court has dealt with the efficacy of that document.

Issue Notice on the prayer for interim relief as well as on the Special Leave Petition, returnable within in two weeks.

Dasti, in addition, is permitted."

The case was further listed for hearing for 10.12.2021 and upon hearing the counsel, the Hon'ble Supreme Court passed the following orders:

"Ld. Counsel appearing for the petitioner-Authority prays for and is granted two weeks' time for filing affidavit of dasti service upon the unserved respondents, except the respondents in respect of whom the affidavit of dasti service may have been filed already.

Ld. Advocate, Mr. Aniruddha Deshmukh, appearing on behalf of Mr. Nikhil Goel, Advocate-on-record undertakes to file vakalatnama and counter affidavit on behalf of respondent Nos. 2 to 4 and prays for time in that regard. The undertaking is accepted and time of four weeks is granted for filing vakalatnama and counter affidavit on behalf of the said respondents.

Ld. Advocate, Mr. Nishant Kumar, appearing on behalf of Ms. Anisha Upadhyay, Advocate-on-record undertakes to file vakalatnama and counter affidavit on behalf of respondent Nos. 6 to 11 and prays for time in that regard. The undertaking is accepted and time of four weeks is granted for filing vakalatnama and counter affidavit on behalf of the said respondents.

Respondent No. 5 appears in person and is granted liberty to take steps as per rules for conducting the matter himself.

List on 4.2.2022".

**12.** Since the Hon'ble Supreme Court of India has not granted interim stay against the orders of the Hon'ble High Court passed in CWP No. 8093 of 2021 on 10.09.2021 and 15.09.2021.

**13.** Meanwhile Shri Kanwar Singh has made a prayer that since order declaring his election as President of Municipal Committee, Dharuhera as invalid by the State Election Commissioner, Haryana has been set aside by the Hon'ble High Court of the Punjab and Haryana at Chandigarh and no interim stay has been granted by the Hon'ble Supreme Court of India in the SLP (C) filed by the State Election Commission, Haryana, his name may be notified as elected for the President of Municipal Committee, Dharuhera. Legal opinion of Advocate General, Haryana has been taken wherein he has opined that since the order passed by the Hon'ble High Court setting aside the order passed by the State Election Commission declaring his election as invalid and the Hon'ble Supreme Court of India has not granted interim stay, the State Election Commission must comply with and implement directions of the Hon'ble High Court passed by its judgment dated 15.09.2021 to avoid contempt of court proceedings. Therefore, I, Dhanpat Singh, State Election Commissioner, Haryana in compliance with the orders dated 15.09.2021 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh in CWP No 8093 of 2021 and in exercise of the powers vested under clause (1) of the article 243 ZA of the Constitution of India, section 3A of the Haryana Municipal Act, 1973 and all other powers enabling me in this behalf hereby order to withdraw order No. SEC/1ME/2021/653 dated 15<sup>th</sup> March, 2021 passed by this Commission with immediate effect and to further notify the name of Sh. Kanwar Singh son of Shri Deena Ram as President, Municipal Committee, Dharuhera, Rewari under Section 24(2) of the Haryana Municipal Act, 1973. However, this order is subject to the final outcome of the Special Leave Petition No. 17299-17300 of 2021 filed by the State Election Commission in the Hon'ble Supreme Court of India.

I order accordingly.

DHANPAT SINGH,  
State Election Commissioner, Haryana.